

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services - Treasuries and Accounts Department – Rangareddy District - Disciplinary action against Sri B.Paul Ezer, ATO, Divisional Sub-Treasury, Hayathnagar for certain irregularities alleged to have been committed by him in processing and payment of Pensions - Imposition of a punishment of Compulsory Retirement by the Director of Treasuries and Accounts - Appeal petition of Sri B.Paul Ezer, ATO (Retd.) – Modification of punishment to that of withholding one increment without cumulative effect and to recover the equal amount of such punishment from his pensionary benefits – Orders – Issued.

FINANCE (ADMN.I.VIG.) DEPARTMENT

G.O.Rt.No. 711

Dated: 23-02-2010.

Read the following:

1. DTA Proceedings No. K(II)7/5136/2007, dt. 24-12-2008.
2. Appeal Petition dt. 12-01-2009 of Sri B.Paul Ezer, ATO (Retd.)
3. Govt. Memo.No.136/25/A2/Admn.I/2009, dt. 22-01-2009.
4. DTA Lr.No. K(II)7/5136/2007, dt. 17-04-2009.
5. Govt. Memo.No.136/25/A2/Admn.I/2009, dt. 26-06-2009
6. DTA Lr.No. K(II)7/5136/2007, dt. 21-08-2009.

ORDER:

In the reference 1st read above the Director of Treasuries and Accounts has imposed a punishment of Compulsory Retirement against Sri B.Paul Ezer, ATO, Divisional Sub-Treasury, Hayathnagar, Rangareddy District for certain irregularities alleged to have been committed by him in processing and payment of Pensions and sanctioned 95% of invalid pension under Rule 39(1) of A.P. Revised Pension Rules, 1980.

2. Aggrieved with the above orders of the Director of Treasuries and Accounts, Sri B.Paul Ezer, ATO (Retd.) has filed an appeal petition under Rule 34 (1) (11) of A.P. Civil Services (CC&A) Rules, 1991 vide reference 2nd read above. The appellant has relied on the following points in his appeal petition.

1. Delay occurred in the disciplinary proceedings including that in the Enquiry Proceedings.
2. Findings of the proceedings of charge-II & III.
3. Impact of the punishment on the appellant pensionary benefits.

3. On examination of the appeal petition of Sri B.Paul Ezer, ATO (Retd.) with reference material on record, it is observed that;

a) The Director of Treasuries and Accounts has initiated disciplinary proceedings against the appellant on the following charges.

CHARGE-I:

Sri B.Paul Ezer while working as Assistant Treasury Officer in the office of the Sub-Treasury, Hayathnagar has failed to comply with the instructions of the superior office for recovery of the excess paid pensions thereby causing loss to Government ex-chequer due to his negligence and misconduct there by violating Rule 3 of APCS (Conduct) Rules 1964.

CHARGE-II:

Sri B.Paul Ezer while working as ATO in the O/o Sub-Treasury, Hayathnagar has made irregular consolidation of (4) pensioners by neglecting the existing Government orders in the issue thereby violating the Rule 3(1) and (2) of APCS (Conduct) Rule 1964.

CHARGE-III:

Sri B.Paul Ezer while working as ATO in the O/o Sub-Treasury, Hayathnagar has paid excess arrears of pension amounting to Rs.1,07,640/- The over payment has caused loss to the ex-chequer due to his negligence and carelessness, thereby he has violated Rule 3(1) and (2) of APCS (Conduct) Rule 1964.

CHARGE-IV:

Sri B.Paul Ezer while working as ATO in the O/o Sub-Treasury, Hayathnagar has proposed irregular calculation of pension arrears who retired after 01-07-2003 with inflated figures negligently and failed to discharge the duties judiciously. Thereby he has violated Rule 3(1) and (2) of APCS (Conduct) Rules 1964.

- b) The appellant has submitted his written statement of defence on 19-7-2007, denying all the four Charges. On examination of his written statement of defence, the DTA being disciplinary authority ordered an inquiry by appointing Smt.Yasmeen Sultana, formerly CAO., O/o Commissioner of Printing, Stationery and Stores Purchase, Hyderabad and presently working as Deputy Director , O/o Director of Treasuries and Accounts, A.P., Hyderabad as Inquiring Authority and Sri N.Ch. Satyanarayana, Deputy Director, Nalgonda as Presenting Officer. **The Inquiring Authority has submitted her report wherein Charge-I & IV were found not proved Charge-II partially proved and Charge-III proved.** After examination of the Inquiry Report and material available on records the disciplinary authority disagreed with the findings of the Inquiry Officer on charge-II and considered to differ with the findings of Inquiring Authority on that charge. Accordingly, an opportunity was provided to the appellant to submit his representation on the said Inquiry Report and the provisional deviation on Charge-II recorded by the disciplinary authority. Thereon, the applicant has submitted his representation dated 10-12-2008 denying the charge-III and the disagreement factor in respect of Charge-II. After taking into consideration of the material on record, the disciplinary authority found that the Charge-II and III are proved and the appellant was awarded with the major punishment of Compulsory Retirement.
- c) the Inquiry Authority's analysis and assessment in respect of Charge-II i.e. regarding payment of arrears without authorization from AG in respect (4) individuals, arrears were worked out by the District Treasury itself and the pay bank list of arrears was generated in District Treasury and transmitted to Sub-Treasury, Hayathnagar (Exhibit-II). The pay bank list generated in the month of 12/05 in District Treasury included the 4 cases mentioned in the charge wherein the arrears were calculated without being authorized by the AGAP. The procedure of generating the pay bank list including the PRC arrears without a specific proposal from the Sub-Treasury has facilitated for the payment of without authorization from AGAP. During the Inquiry the Charged Officer contended that the Pensioners Association pressurized the Dy. Director, District Treasury to pay the arrears at the earliest, which has prompted Dy. Director to generate the pay bank list including PRC arrears at District Treasury itself in respect of all pensioners and transmit it to the Sub-Treasury for making payment. And further Sub-Treasury was instructed to arrange for payment within hours; hence this discrepancy has arisen for which ATO alone cannot be made responsible.
- d) The Inquiry Officer, in her findings clearly observed that the generation of pay bank list by the District Treasury, without proposal of the STO, without verifying regarding receipt of authorization from AGAP and the further direction to make payments immediately by Deputy Director and non verification on the part of the ATO whether the authorization from AGAP was received has resulted in payment without authorization. However, the same was regulated by the ATO after receiving the pension revision order from AGAP duly forwarded by Deputy Director. Hence, the Charge-II is held partially proved on the part of ATO, Paul Ezer. Hence, the ATO alone cannot be held responsible for the discrepancy occurred. The role of District Treasury Office is more in this matter. The Inquiry Officer and DTA have not shown any enthusiasm to find fault with the DTO staff. Interestingly, the charge was framed after rectifying the procedure irregularity by the Charged Officer i.e. after obtaining the AGAP authorizations for the (4) cases. There is no monetary loss to the exchequer in this regard.
- e) In respect of Charge-III which was held proved, the Charged Officer has paid the arrears of pension in excess of admissibility to a tune of Rs.1,07,640/- in respect (5) Pensioners. The Charged Officer defended his case that the Senior Accountant is responsible for Arithmetical accuracy. Due to negligence of the Subordinate staff, the excess payments were made. The Charged Officer has taken immediate action to recover the amounts. The excess payment made was fully recovered and there was no loss to the exchequer. The Inquiry Officer has observed that the excess payments were made as a consequence of not applying the appropriate DTA rates and non working of out of due drawn statements. The difference amount of pension was

directly paid duly multiplying with No. of months for which arrears were due, interim relief was not adjusted (Exhibit No.III). These discrepancies were not noticed by the ATO. **However, the excess payments made were totally recovered subsequently as such there was no loss to the Government exchequer.**

- f) As seen from the above, it is clear that the disciplinary authority i.e. DTA has not made any attempt to identify other individuals responsible for the discrepancies in the DTO, Rangareddy and as well as STO, Hayathnagar while initiating disciplinary action against the appellant. It shows that there was a sheer discrimination in finding fault with the ATO alone and punishing him with a major penalty of compulsory retirement, though the said discrepancies were rectified by the ATO well before initiating departmental proceedings against him and though there was no loss to the exchequer. The punishment imposed by the disciplinary authority seems to be unjustified and excessive.

4. Government, after careful examination of the appeal petition of the individual in detail with reference to the relevant material on record and report of the DTA and careful considering the totality of the circumstances, view that the penalty imposed by the disciplinary authority i.e. Compulsory retirement from service is grossly disproportionate to the acts of omission/commission of the Charged Officer. Two out of the four charges framed are not proved and one charge partially proved and only one charge fully proved. The charges proved also do not relate to monetary loss to impose such a penalty of compulsory retirement. Therefore, it is felt that the punishment imposed by the DTA **ie. Compulsory Retirement from service** which is a major punishment is excessive. The punishment of **withholding one increment without cumulative effect** and to recover the equal amount of such punishment from his pensionary benefits is sufficient for the lapse of the appellant in this case.

5. Accordingly, Government hereby modify the punishment imposed by the DTA **ie. ie. Compulsory Retirement from service** on Sri B.Paul Ezer, ATO to that of **withholding one increment without cumulative effect and recover the equal amount of such punishment from his pensionary benefits** considering his appeal petition.

6. The Director of Treasuries and Accounts, Hyderabad shall take necessary further action in the matter accordingly.

7. The G.O. is available on Internet and can be accessed at the address <http://www.goir.ap.gov.in>.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**L.V.SUBRAHMANYAM
PRL.SECRETARY TO GOVERNMENT (FP)**

To

The individual through the Director of Treasuries & Accounts, A.P., Hyderabad.

The Director of Treasuries and Accounts, A.P., Hyderabad.

The Deputy Director, District Treasury, Rangareddy District, Hyderabad.

//FORWARDED BY ORDER//

SECTION OFFICER